

MAYOR OF LONDON

Sian Berry AM

Chair of the Housing Committee
City Hall
The Queen's Walk
More London
London SE1 2AA

Our ref: MGLA080218-3198

Date: 02 JUL 2018

Dear Sian,

Re: Housing Committee report – Protecting London's property guardians

Thank you for your letter of 6 February outlining the findings and recommendations of the Housing Committee's timely report on property guardians in London. I welcome the attention that you and other members of the Committee have drawn to the issues faced by property guardians in the capital. Although available evidence suggests that property guardians make up only a small proportion of private renters, evidently this is a growing sector in London and an important issue that merits the scrutiny of the Committee.

My response to the Committee's specific recommendations are set out in the appendix to this letter. The report's emphasis on better support for property guardians complements my own efforts to secure a better deal for all of London's private renters. This vision is set out in the draft London Housing Strategy, and includes setting up the country's first public Rogue Landlord and Agent Checker, a new Private Rented Sector Partnership to drive improvements in standards and conditions across all councils, and commitments to work with the Government on more fundamental reforms to this vital tenure.

I am aware that property guardian schemes have the potential to deliver benefits to property owners and occupants, both in terms of making best use of temporarily empty buildings and in providing flexible rental accommodation at a lower cost. I am aware of some social enterprises (including those highlighted in the report) who operate property guardian schemes to deliver wider social benefits – including allowing those in the vital charitable and creative industries to access affordable accommodation in London. Despite these potential benefits, I remain concerned at the opportunities for exploitation that such an unregulated industry presents, and indeed at the anecdotal evidence submitted by some councils that such exploitation is already taking place.

Although I have some influence over industry and local authority practices through the London Plan and my Private Rented Sector Partnership, my powers in this area are limited. I continue to call on the Government therefore to consider property guardianship as part of a wider review of the regulatory framework governing the private rented sector. In particular, the Government should urgently clarify which enforcement powers and authorities apply to the property guardian industry, as well as reviewing the legal status of property guardians and the licences or tenancy agreements issued to them, and the properties occupied by property guardians and the companies who operate them.

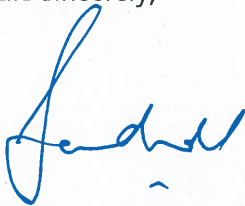
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Crucially, the Government must include in this overhaul of powers and regulation appropriate resources for councils and other enforcement bodies - not just to protect the rights of property guardians, but of all private renters in London. The enforcement authorities that exist at present are grappling with huge financial pressures and must not be expected to take on further regulatory and enforcement duties without increases in funding and support.

Ensuring that the regulatory framework for property guardianship is sound and sufficiently resourced will be fundamental to ensuring that the rights of property guardians are established and protected. It will also allow the beneficial aspects of this industry to flourish, while giving enforcement authorities the powers to clamp down on rogue operators.

Thank you again for your work in investigating these issues.

Yours sincerely,



Sadiq Khan
Mayor of London

Cc: Lorraine Ford, Scrutiny Manager

Appx.

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Appendix: Mayoral response to recommendations in *Protecting London's Property Guardians*

Recommendation 1: MHCLG should review legislation and guidance (for example, the Tenant Fees Bill 2017) to see how licensees can benefit from the improvements made in the private rented sector.

I support this recommendation. I have made it clear in my discussions with the Government, as well as in my draft London Housing Strategy, that the ban on letting agent fees and the cap on tenancy deposits must apply equally and universally to all private renters to avoid the creation of loopholes that may be exploited by unscrupulous agents and landlords.

Recommendation 2: The Mayor and MHCLG should provide guidance about the legal rights of guardians and where guardians can access help.

At present, the rights of property guardians are very unclear, and I am concerned that this may leave them vulnerable to exploitation. It is Government's responsibility to provide clarity on the legal position of guardians. My officers have asked the Ministry of Housing, Communities and Local Government (MHCLG) to provide clarity and guidance on this issue on a number of occasions, but no such guidance has been forthcoming. In addition to improving property guardians' understanding of their rights, such clarification would also benefit councils, many of whom believe such properties should be licensed in order to provide greater protection to tenants.

Recommendation 3: The Mayor should advise councils (especially those that use property guardians) to ensure the words 'property guardian' are included on all local authority publicly promoted resources on raising grievances about property standards, fire safety and environmental health concerns.

I am happy to commit to discussing this issue with the Private Rented Sector Partnership to determine the best way to communicate routes to redress for property guardians. However, until clarification is provided either by the courts or by MHCLG on the legal status of property guardians, it is difficult to determine exactly what support guardians are entitled to.

Recommendation 4: MHCLG should require all property guardian companies to register with a recognised property agents redress scheme. This would allow guardians to raise concerns about a company in a 'safe space'.

I support this recommendation.

Recommendation 5: The Valuation Office Agency should provide clear guidance on whether commercial properties that are temporarily occupied by guardians are entitled to a temporary revaluation from business rates to council tax. This would ensure property guardian companies and property owners are aware of the rules around business rates and council tax.

I support measures that would ensure that property guardian companies and property owners are aware of their responsibilities in relation to business rates and council tax. The Valuation Office Agency (VOA) has an important role to play in this. As set out in your report, any guidance produced by the VOA is subject to High Court judgement on a current case relating to temporary change of use.

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Recommendation 6: MHCLG should clarify whether the Housing Act 2004 is enforceable against malpractice in the property guardian sector. MHCLG should revisit the Housing Act 2004 if it is no longer protecting people effectively.

I support this recommendation and my officers have asked MHCLG officials to provide this clarification.

Recommendation 7: The Mayor should use the London Boroughs' Private Rented Sector Partnership to share best practice and lessons learned by local authorities.

Officers will raise the issue of property guardians and best practice-sharing with the Private Rented Sector Partnership at the next opportunity. The Partnership exists to allow councils to share such best practice and ensure renters across London are better protected.

Recommendation 8: MHCLG should provide statutory guidance for environmental health officers and the London Fire Brigade on how to effectively deal with buildings occupied by property guardians, like guidance provided for bedsits and shared accommodation.

I support this recommendation.

Recommendation 9: The Mayor and MHCLG must provide clarity on how local authority planning departments should handle commercial properties occupied by property guardians.

In the Greater London Authority's (GLA) view, no special planning requirements apply to such properties. Either permitted development rights for change of use from office to residential would apply (outside the Central Activities Zone and other Article 4 Direction areas), or, in the case of industrial buildings, permission to convert to residential accommodation on a temporary or permanent basis would be required. This is unlikely to be consented where it would conflict with planning policies which seek to safeguard designated industrial land and resist residential land uses in these areas and, where consent has not been obtained for a change in use, such properties could be subject to planning enforcement.

Recommendation 10: The Mayor and MHCLG should set out best practice guidance for local authorities when procuring property guardian services. Guidance should include a standardised contract between building owners and guardian companies, which contains a minimum length of tenure, licence fee setting if applicable, and clear guidance on repairs and maintenance responsibilities. This guidance could also form part of the 'A fairer deal for private renters and leaseholders' section of the Mayor's Housing Strategy.

I consider that issuing such best practice guidance, to ensure that councils across the country are operating consistently, would fall within the remit of MHCLG. I would be keen to participate in any process to develop such guidance, given the prevalence of property guardian schemes in London. However, clarification from MHCLG on the rights of property guardians, as outlined above, is a prerequisite for this work. Without a full understanding of the legal status of guardians, the properties they occupy and the companies which operate them, and which enforcement powers and authorities apply, it will be difficult to develop best practice.

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Recommendation 11: Efforts by guardian companies to introduce common standards are welcome, but it is important all companies follow them if they are to be effective. Therefore, the Mayor and Government, as well as councils who use guardian companies, should look at what can be done to ensure new standards are applied more widely.

My position is that MHCLG should work with the GLA, the industry, councils, property guardians themselves and renters' rights organisations to come up with a clear framework for this industry, to include:

- clarification of the legal status of all aspects of the industry and the powers and enforcement bodies that apply to it;
- best practice for councils with regard to planning, enforcement of standards and conditions and procurement;
- a common standard of service to be adopted by the industry; and,
- clear communication of the rights of property guardians and their routes to redress.

This should form part of the Government's plans to reform and extend the regulation of letting and managing agents, and to increase access to redress for housing consumers of all tenures.